

## SENATE BILL NO. 198

INTRODUCED BY KITZENBERG, COONEY, PEASE, SCHMIDT

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING ~~A SCHOOL DISTRICT TO ADOPT A POLICY PROHIBITING HARASSMENT, INTIMIDATION, OR BULLYING ON SCHOOL PROPERTY, AT A SCHOOL-SPONSORED FUNCTION, OR ON A SCHOOL BUS~~ THE BOARD OF PUBLIC EDUCATION AND SCHOOL DISTRICTS TO JOINTLY CONSIDER WAYS TO ADDRESS HARASSMENT, INTIMIDATION, AND BULLYING IN PUBLIC AND OTHER ACCREDITED SCHOOLS, INCLUDING THE DEVELOPMENT OF A MODEL POLICY AND TRAINING; PROVIDING FOR A REPORT TO THE LEGISLATURE BY THE BOARD OF PUBLIC EDUCATION UPON REQUEST; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. Legislative findings and declarations.** (1) The legislature finds that:

(a) a safe and civil environment in school is necessary for students to learn and achieve high academic standards;

(b) harassment, intimidation, ~~or~~ AND bullying, like other disruptive or violent behaviors, ~~disrupts~~ DISRUPT both a student's ability to learn and a school's ability to educate its students in a safe environment; and

(c) school personnel should demonstrate appropriate behavior by refusing to tolerate harassment, intimidation, ~~or~~ AND bullying.

(2) The legislature declares that there is a compelling public need ~~for school districts to adopt policies that prohibit~~ TO ADDRESS harassment, intimidation, ~~or~~ AND bullying of students.

~~NEW SECTION. Section 2. Definition.~~ (1) As used in [sections 1 through 5], "harassment, intimidation, or bullying" means any gesture or written, verbal, or physical act that:

~~(a) a reasonable person should know will have the effect of harming a student, damaging a student's property, or placing a student in reasonable fear of harm to the student's person or damage to the student's property; or~~

~~(b) has the effect of insulting or demeaning a student or group of students in such a way as to disrupt or interfere with the school's educational mission or is sufficiently severe, persistent, or pervasive that it creates~~

~~an intimidating, threatening, or abusive educational environment for a student.~~

~~———— (2) The term includes but is not limited to any gesture or written, verbal, or physical act that is reasonably perceived as being motivated by:~~

~~———— (a) an actual or perceived characteristic, such as race, color, religion, ancestry, sexual orientation, national origin, gender, social or economic status, language barrier, or homeless status;~~

~~———— (b) a mental, physical, or sensory handicap; or~~

~~———— (c) any other actual or perceived distinguishing characteristic.~~

~~———— **NEW SECTION. Section 3. Harassment policy -- contents.** (1) The trustees shall adopt a policy that prohibits harassment, intimidation, or bullying on school property, at a school-sponsored function, or on a school bus. The trustees shall consult with parents, school personnel, students, and members of the community in developing the policy.~~

~~———— (2) At a minimum, the policy must include:~~

~~———— (a) a statement prohibiting harassment, intimidation, or bullying of a student;~~

~~———— (b) a definition of harassment, intimidation, or bullying that may not be less inclusive than the definition provided in [section 2];~~

~~———— (c) a description of the type of behavior expected from each student;~~

~~———— (d) a procedure for reporting an act of harassment, intimidation, or bullying, including a provision that permits a person to report the act anonymously. Formal disciplinary action may not be initiated solely on the basis of an anonymous report.~~

~~———— (e) a procedure for the prompt investigation of a report of a violation or complaint. The principal of the school or the principal's designee shall conduct the investigation.~~

~~———— (f) a statement that prohibits reprisal or retaliation against a person who reports an act of harassment, intimidation, or bullying; and~~

~~———— (g) the consequences and appropriate remedial action for a person who:~~

~~———— (i) commits an act of harassment, intimidation, or bullying; or~~

~~———— (ii) retaliates against a person who reports an act of harassment, intimidation, or bullying.~~

~~———— (3) The policy must be included in any school district publication that sets forth policies and procedures or standards of conduct for employees or students.~~

~~———— (4) A copy of the policy must be sent to the county superintendent.~~

~~NEW SECTION. Section 4. School district responsibilities. (1) The trustees shall ensure that every school district employee, person working under contract with the school district, school volunteer, and student is made aware of the district's policy on harassment, intimidation, or bullying.~~

~~(2) (a) If a school district has a training or orientation program for school district employees or school volunteers, the provisions of the district's policy must be incorporated into the program.~~

~~(b) To the extent funds are available, a school district shall provide training on the district's policy to school district employees and school volunteers who have contact with students.~~

~~(3) A school district or a school is encouraged to establish a program for the prevention of harassment, intimidation, or bullying.~~

~~NEW SECTION. Section 5. School personnel responsibilities. (1) A school district employee or a school volunteer who has witnessed or has reliable information that a student has been subjected to harassment, intimidation, or bullying shall promptly report the incident to the appropriate school official designated in the district's policy.~~

~~(2) A school district employee or a school volunteer may not engage in reprisal or retaliation against a victim, a witness, or a person with reliable information about an act of harassment, intimidation, or bullying.~~

**NEW SECTION. SECTION 2. ADDRESSING ISSUE OF HARASSMENT, INTIMIDATION, AND BULLYING IN SCHOOLS**  
**-- REPORT TO LEGISLATURE. (1) THE BOARD OF PUBLIC EDUCATION SHALL WORK WITH SCHOOL DISTRICTS TO JOINTLY CONSIDER METHODS TO ADDRESS HARASSMENT, INTIMIDATION, AND BULLYING IN PUBLIC AND OTHER ACCREDITED SCHOOLS.**

**(2) THE BOARD AND SCHOOL DISTRICTS SHALL DIRECT THEIR EFFORTS IN COMBATING HARASSMENT, INTIMIDATION, AND BULLYING THROUGH THE DEVELOPMENT OF A MODEL POLICY. THESE EFFORTS SHOULD:**

**(A) INVOLVE CONSULTATION WITH PARENTS, SCHOOL PERSONNEL, STUDENTS, AND MEMBERS OF THE COMMUNITY IN THE DEVELOPMENT OF A MODEL POLICY FOR DISTRICTS;**

**(B) ENSURE THAT A MODEL POLICY, AT A MINIMUM, INCLUDES:**

**(I) A DEFINITION OF HARASSMENT, INTIMIDATION, AND BULLYING THAT IS AT LEAST AS INCLUSIVE AS THE DEFINITION PROVIDED IN SUBSECTION (4);**

**(II) A PROCEDURE FOR A STUDENT OR EMPLOYEE TO REPORT AN ACT OF HARASSMENT, INTIMIDATION, AND**

1 BULLYING;

2 (III) A PROCEDURE FOR RESOLVING AN ALLEGATION OF A VIOLATION OF THE DISTRICT'S POLICY;

3 (IV) A PROHIBITION ON STUDENTS, SCHOOL DISTRICT EMPLOYEES, OR VOLUNTEERS FROM ENGAGING IN REPRISAL  
4 OR RETALIATION AGAINST A VICTIM, WITNESS, OR PERSON WHO PROVIDES INFORMATION ABOUT AN ACT OF HARASSMENT,  
5 INTIMIDATION, AND BULLYING; AND

6 (V) AN OUTLINE OF THE CONSEQUENCES AND APPROPRIATE REMEDIAL ACTION FOR A PERSON WHO COMMITS AN  
7 ACT OF HARASSMENT, INTIMIDATION, AND BULLYING OR RETALIATES AGAINST A PERSON WHO REPORTS AN ACT OF  
8 HARASSMENT, INTIMIDATION, AND BULLYING; AND

9 (C) IDENTIFY RESOURCES AVAILABLE TO PROVIDE TRAINING FOR SCHOOL DISTRICT EMPLOYEES OR VOLUNTEERS  
10 ON THE PREVENTION OF HARASSMENT, INTIMIDATION, AND BULLYING.

11 (3) THE BOARD SHALL, UPON REQUEST, REPORT TO THE EDUCATION AND LOCAL GOVERNMENT INTERIM  
12 COMMITTEE ON THE EFFORTS TAKEN JOINTLY WITH SCHOOL DISTRICTS TO ADDRESS THE ISSUE OF HARASSMENT,  
13 INTIMIDATION, AND BULLYING IN PUBLIC AND OTHER ACCREDITED SCHOOLS, INCLUDING THE NUMBER OF SCHOOL DISTRICTS  
14 THAT HAVE ADOPTED POLICIES PROHIBITING HARASSMENT, INTIMIDATION, AND BULLYING.

15 (4) AS USED IN [SECTIONS 1 AND 2], "HARASSMENT, INTIMIDATION, AND BULLYING" MEANS ANY GESTURE OR  
16 WRITTEN, VERBAL, OR PHYSICAL ACT THAT:

17 (A) A REASONABLE PERSON SHOULD KNOW WILL HAVE THE EFFECT OF HARMING A STUDENT, DAMAGING A  
18 STUDENT'S PROPERTY, OR PLACING A STUDENT IN REASONABLE FEAR OF HARM TO THE STUDENT'S PERSON OR DAMAGE  
19 TO THE STUDENT'S PROPERTY; OR

20 (B) HAS THE EFFECT OF INSULTING OR DEMEANING A STUDENT OR GROUP OF STUDENTS IN SUCH A WAY AS TO  
21 DISRUPT OR INTERFERE WITH THE SCHOOL'S EDUCATIONAL MISSION OR THE EDUCATION OF THE STUDENT.

23 NEW SECTION. Section 3. Codification instruction. [Sections 1 through 5 AND 2] are intended to be  
24 codified as an integral part of Title 20, chapter 3, part 3, and the provisions of Title 20, chapter 3, part 3, apply  
25 to [sections 1 through 5 AND 2].

27 NEW SECTION. SECTION 4. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE ON PASSAGE AND APPROVAL.

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